

Act to ensure that low-income beneficiaries have improved access to health care under the Medicare and Medicaid programs.

S. 1203

At the request of Mr. BAUCUS, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1203, a bill to amend the Internal Revenue Code of 1986 to extend the research credit through 2010 and to increase and make permanent the alternative simplified research credit, and for other purposes.

At the request of Mr. HATCH, the names of the Senator from Idaho (Mr. CRAPO) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 1203, supra.

AMENDMENT NO. 1230

At the request of Mr. JOHANNES, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of amendment No. 1230 intended to be proposed to H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes.

AMENDMENT NO. 1256

At the request of Mr. LIEBERMAN, the names of the Senator from Alaska (Ms. MURKOWSKI), the Senator from Maryland (Ms. MIKULSKI), the Senator from Hawaii (Mr. INOUE), the Senator from Alaska (Mr. BEGICH), the Senator from Wisconsin (Mr. KOHL) and the Senator from Maryland (Mr. CARDIN) were added as cosponsors of amendment No. 1256 proposed to H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes.

AMENDMENT NO. 1270

At the request of Mr. CORKER, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of amendment No. 1270 intended to be proposed to H.R. 1256, to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURBIN:

S. 1212. A bill to amend the antitrust laws to ensure competitive market-

based fees and terms for merchants' access to electronic payment systems; to the Committee on the Judiciary.

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1212

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Credit Card Fair Fee Act of 2009".

SEC. 2. DEFINITIONS.

In this Act:

(1) ACCESS.—The term "access"—

(A) when used as a verb means to use to conduct transaction authorization, clearance, and settlement involving the acceptance of credit cards or debit cards from consumers for payment for goods or services and the receipt of payment for such goods or services; and

(B) when used as a noun means the permission or authority to use to conduct transactions described in subparagraph (A).

(2) ACCESS AGREEMENT.—The term "access agreement" means an agreement between 1 or more merchants and 1 or more providers giving the merchant access to a covered electronic payment system, conditioned solely upon the merchant complying with the fees and terms specified in the agreement.

(3) ACQUIRER.—The term "acquirer"—

(A) means a financial institution that provides services allowing merchants to access an electronic payment system to accept credit cards or debit cards for payment; and

(B) does not include an independent third party processor that may act as the agent of a financial institution described in subparagraph (A) in processing general-purpose credit card or debit card transactions.

(4) ADJUDICATION.—The term "adjudication" has the meaning given that term in section 551 of title 5, United States Code, and does not include mediation.

(5) ANTITRUST LAWS.—The term "antitrust laws"—

(A) has the meaning given that term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)); and

(B) includes—

(i) section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent section 5 applies to unfair methods of competition; and

(ii) State antitrust laws.

(6) CHAIRMAN.—The term "Chairman" means the Chairman of the Federal Trade Commission.

(7) COVERED ELECTRONIC PAYMENT SYSTEM.—The term "covered electronic payment system" means an electronic payment system that routes information and data to facilitate transaction authorization, clearance, and settlement for not less than 10 percent of the combined dollar value of credit card or debit card payments processed in the United States in the most recent full calendar year.

(8) CREDIT CARD.—The term "credit card" means any general-purpose card or other credit device issued or approved for use by a financial institution for use in allowing the cardholder to obtain goods or services on credit on terms specified by that financial institution.

(9) DEBIT CARD.—The term "debit card" means any general-purpose card or other device issued or approved for use by a financial institution for use in debiting the account of a cardholder for the purpose of that card-

holder obtaining goods or services, whether authorization is signature-based or PIN-based.

(10) ELECTRONIC PAYMENT SYSTEM.—The term "electronic payment system" means the proprietary services, infrastructure, and software that route information and data to facilitate transaction authorization, clearance, and settlement and that merchants are required to access in order to accept a specific brand of general-purpose credit cards or debit cards as payment for goods or services.

(11) ELECTRONIC PAYMENT SYSTEM JUDGES.—The term "Electronic Payment System Judges" means the Electronic Payment System Judges appointed under section 4(a).

(12) FEES.—The term "fees" means any monetary charges, rates, assessments, or other payments imposed by a provider upon a merchant for the merchant to access an electronic payment system.

(13) FINANCIAL INSTITUTION.—The term "financial institution" has the meaning given that term in section 603(t) of the Fair Credit Reporting Act (15 U.S.C. 1681a(t)).

(14) ISSUER.—The term "issuer"—

(A) means a financial institution that issues credit cards or debit cards or approves the use of other devices for use in an electronic payment system; and

(B) does not include an independent third party processor that may act as the agent of a financial institution described in subparagraph (A) in processing general-purpose credit or debit card transactions.

(15) MARKET POWER.—The term "market power" means the ability to profitably raise prices above those that would be charged in a perfectly competitive market.

(16) MERCHANT.—The term "merchant" means any person who accepts or who seeks to accept credit cards or debit cards in payment for goods or services provided by the person.

(17) NEGOTIATING PARTY.—The term "negotiating party" means 1 or more providers of a covered electronic payment system or 1 or more merchants who have access to or who are seeking access to that covered electronic payment system, as the case may be, and who are in the process of negotiating or who have executed a voluntarily negotiated access agreement that is still in effect.

(18) NORMAL RATE OF RETURN.—The term "normal rate of return" means the average rate of return that a firm would receive in an industry when conditions of perfect competition prevail.

(19) PROCEEDING PARTY.—The term "proceeding party" means collectively all providers of a covered electronic payment system or collectively all merchants who have access to or who are seeking access to that covered electronic payment system, as the case may be, during the period in which the Electronic Payment System Judges are conducting a proceeding under this Act relating to that covered electronic payment system.

(20) PERSON.—The term "person" has the meaning given that term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)).

(21) PROVIDER.—The term "provider" means any person who owns, operates, controls, serves as an issuer for, or serves as an acquirer for a covered electronic payment system.

(22) STATE.—The term "State" has the meaning given that term in section 4G(2) of the Clayton Act (15 U.S.C. 15g(2)).

(23) TERMS.—The term "terms" means any and all rules and conditions that are applicable to providers of an electronic payment system or to merchants, as the case may be, and that are required in order for merchants to access that electronic payment system.